

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.87 OF 2017

ORDER:

This Criminal Petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioners/A.2 and A.3 on bail in Cr.No.656 of 2016 of Gajuvaka Police Station, Visakhapatnam District, registered against the petitioners and others for the offences punishable under Sections 304-B of Indian Penal Code, 1860 (for short, 'I.P.C.').

The case of the prosecution in brief is that the *de facto* complainant - Palakuri Pushpa Latha is the mother-in-law of A.1 and the petitioners are sister and brother-in-law of A.1. The marriage of her daughter - Tripurambika (hereinafter referred as 'the deceased') was performed with A.1 on 02.12.2015 and at the time of marriage, the parents of the deceased did not pay anything as dowry because they are poor. It is alleged that thereafter the petitioners, along with others, started harassing the deceased for dowry and on receipt of information the *de facto* complainant pacified the matter in the presence of elders and even thereafter they continued to harass and requested the *de facto* complainant to take her daughter back with them and they also insisted the deceased not to contact her mother; and that she was not conceived even after completion of one year after the marriage and later on 19.12.2016 at about 8-00 hours mother-in-law of the deceased called the *de facto* complainant over phone and informed that her daughter Tripurambika committed

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suicide by hanging herself in the house and requested to take her body.

These allegations clearly show that the death of the Tripurambika at the house of in-laws is unnatural. The specific allegation against the petitioners that they subjected the deceased to cruelty demanding dowry and for her failure to meet the illegal demand is suffice to rope the petitioners with the offence punishable under Section 304-B of I.P.C., *prima-facie*.

The contention of the learned counsel for the petitioners is that the petitioners and others never demanded any dowry, even at the time of marriage they did not give any amount as they are poor. On the other hand the petitioners and others promised to support them. In such case demanding dowry and subjected the deceased to cruelty and driving her to commit suicide for her failure to meet their illegal demand does not arise.

Admittedly, A.1 is dwarf and he is a Comedian. The *de facto* complainant accepted the alliance with A.1 on account of their poverty. In any view of the matter that is not consideration to subject the deceased to cruelty demanding dowry to meet the illegal demand. Even otherwise, there is a presumption under Section 113-B of Indian Evidence Act, 1872 that when a question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within 7 years of her marriage and that husband or such relative of her husband had subjected to cruelty, the court may presume having regard to

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other circumstances, such suicide has been abetted by her husband or relative of her husband.

In the present case, the marriage took place on 02.12.2015 and the incident took place on 19.12.2016 i.e. within a span of one year after the marriage. Therefore, the presumption under Section 113-B of Indian Evidence Act, 1872 that the death of the deceased is dowry death under Section 304-B of I.P.C. and though it is a rebuttable presumption, at this stage, it is difficult to conclude that the petitioners are not responsible, in view of specific allegation made in the complaint.

The petitioners filed similar application before the Sessions Judge in Crl.P.M.P. No.4325 of 2016 and the same was ended in dismissal by order dated 29.12.2016 on the ground that the investigation is not completed, by that time, only 5 witnesses were examined and some documents are to be collected.

According to the Public Prosecutor for the State of Andhra Pradesh, the investigation is still in progress and no further witnesses were examined and contended that there is possibility of interfering with further investigation.

Whereas the counsel for the petitioners submitted that the petitioners are having a daughter, aged about 7 years old and they are in judicial custody since 19.12.2016, and hence requested to enlarge the petitioners on bail. But it is not a ground to enlarge the petitioners on bail and there are no

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changed circumstances, after dismissal of earlier bail application.

Hence, the criminal petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 06.01.2017
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